**BEFORE THE PUBLIC UTILITIES COMMISSION**

**OF THE**

**STATE OF CALIFORNIA**

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| **Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.** | **Rulemaking 22-07-005**<br><br>**(Filed July 14, 2022)** |

# JOINT COMMENTS OF THE CALIFORNIA FARM BUREAU FEDERATION, CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION, CALIFORNIA MANUFACTURERS & TECHNOLOGY ASSOCIATION, ENERGY PRODUCERS AND USERS COALITION, ENERGY USERS FORUM, AND FEDERAL EXECUTIVE AGENCIES ON THE SCOPING MEMO

Catherine Yap
Barkovich & Yap, Inc.
PO Box 11031
Oakland, CA 94611
(510) 450-1270
cathy@barkovichandyap.com

Consultants to the California Large Energy Consumers Association

Nora Sheriff
Samir Hafez
Buchalter, A Professional Corporation
425 Market Street, 29th Floor
San Francisco, CA 94105-2491
415.227.3551 office
nsheriff@buchalter.com
shafez@buchalter.com

Counsel for the California Large Energy Consumers Association

Maurice Brubaker
Brubaker & Associates, Inc.
16690 Swingley Ridge Road, Suite 140
Chesterfield, MO 63017
(636) 898-6725
mbrubaker@consultbai.com

Consultant to the Energy Producers and Users Coalition

Nora Sheriff
Samir Hafez
Buchalter, A Professional Corporation
425 Market Street, 29th Floor
San Francisco, CA 94105-2491
415.227.3551 office
415.227.0770 fax
nsheriff@buchalter.com
shafez@buchalter.com

Counsel to the Energy Producers and Users Coalition

Kevin Johnston
Karen Norene Mills
California Farm Bureau Federation
2600 River Plaza Dr.
Sacramento, CA 95833
Telephone: (916) 561-5688
Facsimile: (916) 561-5691
kjohnston@cfbf.com
kmills@cfbf.com

Counsel for California Farm Bureau Federation

Carolyn M. Kehrein
Energy Management Services
2602 Celebration Way
Woodland, CA 95776
Telephone: (530) 668-5600
Email: cmkehrein@ems-ca.com

Consultant for Energy Users Forum

Rita M. Liotta
United States Department of the Navy
1 Avenue of the Palms, Suite 161
San Francisco, CA 94130
Telephone: (415) 671-9187
Email: rita.m.liotta.civ.@us.navy.mil

Counsel to the Federal Executive Agencies

Ronald Liebert
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
E-Mail: rl@eslawfirm.com

Attorneys for California Manufacturers & Technology Association

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In accordance with the November 2, 2022 *Assigned Commissioner's Phase 1 Scoping Memo and Ruling* (Scoping Memo), the California Farm Bureau Federation (Farm Bureau),[1] the California Large Energy Consumers Association (CLECA),[2] the Energy Producers and Users

[1] The California Farm Bureau Federation (Farm Bureau) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Organized over 100 years ago, Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing nearly 32,000 agricultural, associate, and collegiate members in 56 counties and as part of a nationwide network of more than 5.5 million members. Farm Bureau strives to improve the well-being and quality of life for California farmers and ranchers.

[2] CLECA is an organization of large, high load factor industrial customers located throughout the state; the members are in the cement, steel, industrial gas, medical gas, pipeline, beverage, cold storage, and minerals processing industries, and share the fact that electricity costs comprise a significant portion of their costs of production. Some members are bundled customers, others are Direct Access (DA) customers, and some are served by Community Choice Aggregators (CCAs); a few members have onsite renewable generation. CLECA has been an active participant in Commission regulatory proceedings since the mid-1980s, and all CLECA members engage in Demand Response (DR) programs to both promote grid reliability and help mitigate the impact of the high cost of electricity in California on the competitiveness of manufacturing. CLECA members have participated in the Base Interruptible Program (BIP) and its predecessor interruptible and non-firm programs since the early 1980s.

Coalition (EPUC),[3] California Manufacturers & Technology Association (CMTA)[4], Energy Users Forum (EUF)[5], and Federal Executive Agencies (FEA)[6] (together, the Joint Ratepayer Parties)[7] hereby submit these opening comments on the five questions presented in the Scoping Memo.

## I. INTRODUCTION

The Joint Ratepayer Parties offer their initial comments on the Scoping Memo questions concerning Phase 1 Track B issues, and plan to offer additional responses as appropriate in reply comments and actively participate in workshops as Track B unfolds.

Given the complex issues that will be addressed through this and other dynamic rate-related proceedings, it is vital that the Commission establish a carefully constructed framework to guide dynamic rate design going forward. To accomplish this, the Joint Ratepayer Parties recommend that the Commission make certain revisions to the staff proposal's updated electric rate design principles (RDPs) and new demand flexibility ratemaking principles (Principles). The revisions and recommendations identified below will help enable the Commission and

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[3] EPUC represents the electricity end-use interests of the following companies in this proceeding: Aera Energy LLC, California Resources Corp., Chevron U.S.A. Inc., PBF Holding Company, and Phillips 66 Company.

[4] CMTA represents the interests of 25,000 large and small manufacturers in California with 1.2 million employees, about 8% of total state employment and about 11% of gross state product. Manufacturing creates the most wealth of any sector – for every $1 invested in manufacturing, another $1.35 is added to the economy, and every one manufacturing job supports an additional 2.5 jobs in the local region. Since 1918, CMTA has supported state laws and regulations to maintain a competitive business climate to encourage manufacturing investment and job growth.

[5] EUF is an ad hoc coalition that represents the interests of medium and large bundled service, DA, and CCA customers in California, taking service on rate schedules for accounts with demands above approximately 50 kW.

[6] FEA represents the consumer interests of the Department of Defense and all other Federal Executive Agencies in regulatory proceedings on public utility matters before the California Public Utilities Commission.

[7] Pursuant to Commission Rules of Practice and Procedure Rule 1.8(d), the Farm Bureau, EUF, CMTA, and FEA authorize the filing of this document.

stakeholders to pursue demand flexibility goals in a cost-effective manner and avoid negative unintended consequences.

Appendix A to these comments contains the Joint Ratepayer Parties' tracked changes to updated RDPs 1, 3, 4, 6, and 9, and to Principles 1-4, and 6.

## II. COMMENTS

At the outset, the Joint Ratepayer Parties reiterate the need for the Commission to approach demand flexibility rate reform gradually, carefully, and on a voluntary basis for all customers.[8] The Joint Ratepayer Parties note that the Track B schedule[9] may not afford sufficient flexibility or time to address the ambitious scope and scale of this proceeding.[10] Specifically, the Track B schedule does not allow for deliberations to incorporate the outcomes and data from ongoing real-time pricing (RTP) pilot programs that will help speak to the efficacy of the envisioned reforms. If the RDPs and Principles discussed below are adopted prematurely, the Commission may need to make subsequent modifications or refinements based on this real-world data after it becomes available in 2025.[11] Rework is something to be avoided, if possible. Further, given the significant investment of time and resources being made in gathering data from the ongoing RTP pilots, the Commission must avoid making any mid-stream project modifications or expansions that may inadvertently alter pilot participant behavior, thereby undermining data validity.

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[8] *See, e.g.*, *Joint Comments of California Farm Bureau Federation, California Large Energy Consumers Association, California Manufacturers & Technology Association, Energy Producers and Users Coalition, Energy Users Forum, and Federal Executive Agencies on the Order Instituting Rulemaking* (Joint Ratepayer Parties OIR Comments), Rulemaking (R.) 22-07-005, Aug. 15, 2022 at 8.
[9] Scoping Memo at 9.
[10] *See, e.g.,* Joint Ratepayer Parties OIR Comments at 12-13.
[11] *See* Joint Ratepayer Parties OIR Comments at 11.

### A. Should the Commission adopt the staff proposal for modifying the electric rate design principles applicable to all electric rates of the large investor-owned electric utilities (see Attachment)? Why or why not?

The Commission should adopt the staff proposal with the modifications to the updated electric RDPs discussed in this section. As set forth below, certain of the staff's proposed updated RDPs contain ambiguities or other problematic aspects that should be addressed to avoid confusion and unintended consequences during the rate design process, which consequences may also impact other rate proceedings. Each of the staff proposal's 10 updated RDPs are addressed below.

#### 1. All residential customers (including low-income and medical baseline) should have access to enough electricity to ensure their essential needs (health, safety, and full participation in society) are met at an affordable cost

The Commission should adopt the following language for RDP 1:

> *All residential customers (including low-income and medical baseline) should have access to enough electricity to ensure their essential needs (health, safety, and full participation in society) are met at an affordable cost**, and all customers, regardless of customer class, should have access to affordable electricity**.*

This revision aligns with Energy Division staff's rationale and reflects that *all* customer classes, including nonresidential, should have access to affordable electricity service.

The staff rationale for the modification is that "The Commission stays committed to ensuring all customers have access to enough electricity to meet their essential needs at an affordable cost."[12] As written, however, updated RDP 1 fails to reflect that commitment, since it only refers to residential customers. Nonresidential customer classes represent a significant

[12] Staff Proposal at 2.

portion of the investor-owned utilities' (IOUs) demand and, like residential customers, continue to face challenging rate increases. As such, rate design principles should facilitate residential and nonresidential customers' equal access to affordable electricity service, in accordance with Commission policy and statutory requirements.

The staff proposal appears to inadvertently limit the RDP's scope, due to its reliance on the "definitions, metrics, and findings adopted in the Affordability Proceeding (R. 18-07-006)."[13] However, Phase 3 of the Affordability proceeding will address issues concerning nonresidential customer affordability issues.[14] Thus, RDP 1 should be modified to facilitate access to affordable service for residential and nonresidential customer classes alike.

#### 2. Rates should be based on marginal cost and should not have a negative Contribution to Margin

The Joint Ratepayer Parties have no specific feedback or recommendation on updated RDP 2, but reserve the right to reply to points raised in party comments.

#### 3. Rates should be based on cost-causation principles and avoid cost shifts

The Commission should adopt the following language for RDP 3:

> *Rates should be based on cost-causation principles* ***to*** *avoid cost shifts.*

This revision aligns with staff's rationale and properly conveys the relationship between the terms "cost-causation principles" and "cost shifts."

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[13] *Id.*

[14] *See Assigned Commissioner's Fifth Amended Scoping Memo and Ruling*, R. 18-07-006, Jan. 18, 2022 at 6; *see also* Decision (D.) 22-08-023, *Decision Implementing Affordability Metrics*, R. 18-07-006, Aug. 9, 2022 at 74.

As the Commission has recognized, "[c]ost causation means that costs should be borne by those customers who cause the utility to incur the expense."[15] Thus, cost-causation principles are necessarily aimed towards avoiding cost shifts, since costs remain with the responsible customer class, tariff, or other rubric. However, updated RDP 3's use of the word "and" to join the two terms could give rise to confusion, as this suggests the terms are somehow different and distinct. To avoid confusion, the Joint Ratepayer Parties' propose the word "and" be replaced by the word "to." This minor revision leaves the underlying principle unchanged, and provides the intended simplicity and clarity.

### 4. Rates should encourage greenhouse gas emissions reduction, beneficial electrification and cost-effective energy efficiency

The Commission should adopt the following language for RDP 4:

> *Rates should encourage* ***cost-effective*** *greenhouse gas emissions reduction,* ***cost-effective*** *electrification, and cost-effective energy efficiency*

This revision aligns with staff's intent for rates to encourage certain outcomes, but clarifies that these outcomes need to be achieved in a cost-effective manner; it also addresses the unsupported assumption that all electrification is beneficial. Electrification efforts that target increasing consumption during renewable overgeneration periods will achieve much higher GHG reductions at much lower cost than efforts relying on energy storage discharge during net-peak periods. Energy efficiency efforts also achieve lowest cost GHG reductions by being

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[15] *Order Instituting Rulemaking on the Commission's own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and other Statutory Obligations*, R. 12-06-013, June 28, 2012 at 13 (*citing* 26 CPUC 2d 392, D.87-12-066 [1987] [The Commission noted that avoiding cross-subsidies and supporting cost-causation principles "achieves equity in rates by relating the costs imposed on the utility system to the customer responsible for those costs"]).

deployed to use less energy to perform the same task. Notably, the greatest benefits come from savings during the net peak.

Staff's updated RDP 4 lists three desired outcomes, but only uses the term "cost-effective" to qualify the third and final outcome of energy efficiency. As written, updated RDP 4 could be interpreted to suggest that rates should encourage emissions reductions and electrification at any cost. The Commission must protect ratepayers from this unintended outcome by requiring that rate design encourage these goals in a cost-effective manner.

Ratepayers find themselves in "the valley of the shadow of death" due to the current affordability crisis, and must not be forced to subsidize statewide policy goals through increased rates. California utility customers' rates—already some of the highest in the country—are only projected to increase over the foreseeable future. Thus, the Commission has a duty to protect ratepayers from this growing burden by proactively avoiding rate design mandates that do not encourage cost-effective means of achieving policy goals. If such goals cannot be achieved through rates in a cost-effective manner, then decision makers should either enact legislation to modify certain regulations, or allocate general fund monies towards the goal.

The Joint Ratepayer Parties further recommend against using the term "beneficial electrification," since it is vague and ambiguous and may support outcomes that are inconsistent with the above-referenced affordability goals. Although the Commission has signaled a desire to increase electrification, the Joint Ratepayer Parties note that this does not guarantee a corresponding decrease in customer costs. To the contrary, as electricity rates increase, the total costs associated with increased electrification efforts, such as building electrification, may exceed the total benefits produced.[16]

#### 5. Rates should optimize use of existing grid infrastructure and limit long-term infrastructure costs

The Joint Ratepayer Parties have no specific feedback or recommendation on updated RDP 5, but reserve the right to reply to points raised in party comments.

#### 6. Customers should have options to manage their bills

The Commission should adopt the following language for RDP 6:

> *Customers should* ***be able to understand and*** *have options to manage their bills* ***and readily understand the financial consequences of their consumption behaviors***

This revision aligns with staff's intent to support customers' ability to manage their bills, and highlights a crucial aspect of that ability – understanding the bill.

Preserving the current RDP's "understandable" requirement will help to ensure that rate design empowers customers to make informed decisions that produce individual and system benefits. First, the rate design cannot be so complex that customers cannot understand how to respond to it. Second, customers cannot reasonably manage their bills and respond to dynamic price signals in the desired fashion—or at all—if the relevant information is not communicated clearly. To effectively manage bills, customers need to receive intelligible data, understand the data, and have a convenient way to act upon that data. Thus, failure to foster a customer's

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[16] *See, e.g., Phase 3 Report, Assessment of Portfolio Solutions for Eliminating the Use of Aliso Canyon Natural Gas Storage Facility by 2027 or 2035*, I. 17-02-002, Dec. 31, 2021 at 48, Table 23 (showing a benefit-cost ratio of 0.30, or total net benefit of negative $450,731,000, associated with utilizing Building Electrification, Energy Efficiency, and Noncore Gas Demand response in amounts necessary to meet the Aliso Canyon shortfall), Appendix III at 4, Table 2 (showing negative net benefits for portfolios that incorporate building electrification).

ability to understand their bills threatens to reduce the overall efficacy of rate reform. The IOUs must be key partners with customers in the education process of how rate structures can be optimized for the goals identified.

### 7. Rates should be technology-neutral and avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals

The Joint Ratepayer Parties have no specific feedback or recommendation concerning updated RDP 7, but reserve the right to reply to points raised in party comments.

### 8. Rate incentives should be explicit and transparent

The Joint Ratepayer Parties support maintaining this RDP. Rate incentives should be designed to send clear and accurate price signals based on marginal costs and cost-causation. In addition, if rate incentives involve cross-subsidization allowed under RDP 7, then that cross-subsidization should be done in a manner that least impacts the price signal, *i.e.*, applying a Standard Average Percent Change (SAPC) to all other rate components to pay for the cross-subsidization.

### 9. Rates should encourage customer behavior that improves system reliability

The Commission should adopt the following language for RDP 9:

> *Rates should encourage* ***economically efficient decision making by customers and*** *encourage customer behavior that improves system reliability*

This revision underscores the need to incent economically efficient outcomes through rate design, and avoids the potential imposition of punitive rates.

The staff's rationale for its proposed modification to RDP 9 refers to volumetric rates based on marginal costs.[17] However, given this RDP's focus on system reliability, the Joint Ratepayer Parties note that, while volumetric rates based on marginal energy and coincident capacity costs may encourage economically efficient decision making, it is not a foregone conclusion that those volumetric rates will necessarily improve system reliability; the assumption that volumetric rates would do so by causing sufficient load shifting to justify the additional cost associated with maintaining a dynamic pricing system has not been proven. Nor are the costs known. This issue will require considerable stakeholder input and substantial analysis from ongoing pilots. Analysis from pilots and other real world applications is very important to ensure that the RDP does not dictate an outcome that runs counter to what customers can realistically implement.

As the Joint Ratepayer Parties noted in previous comments, both coincident demand charges (CDCs) and non-coincident demand charges (NCDCs) can help to achieve the customer behavior addressed in this RDP.[18] CDCs and NCDCs are based upon marginal costs and allow customers to make economically efficient load shifting decisions that help reduce system impacts, improve system reliability, and achieve cost-effective grid GHG reductions. Given the uncertainty surrounding the costs and system benefits of a dynamic rate structure, eliminating these effective demand charges may hinder this RDP's objectives and increase the burden on the local distribution system.

[17] Staff Proposal at 4.
[18] *See*, Joint Ratepayer Parties OIR Comments at 13.

Furthermore, updated RDP 9 risks the unintended consequence of justifying punitive rates that exceed marginal costs if those rates encourage outcomes that benefit system reliability. Keeping the term "cost-effective" in this RDP can help to avoid this unintended consequence, by ensuring that customer decision making is driven by signals that represent true system costs rather than potentially unreasonable or inaccurate penalties. In other words, the Joint Ratepayer Parties propose that the RDP maintain a "carrot" rather than a "stick" approach to encouraging customer behavior that improves system reliability.

**10. Transitions to new rate structures should emphasize customer education and outreach that enhances customer understanding and acceptance of new rates and minimizes the bill impacts associated with such transitions**

The Joint Ratepayer Parties have no specific feedback or recommendation concerning updated RDP 10, but reserve the right to reply to points raised in party comments.

**B. Should the Commission adopt the staff proposal for new demand flexibility design principles applicable to all demand flexibility rates of large investor-owned electric utilities (see Attachment)? Why or why not?**

The mammoth undertaking envisioned in this proceeding requires a tremendously sturdy framework to guide the process. Although intended to "streamline and standardize" demand flexibility rate design and processes, the six proposed Demand Flexibility Design Principles (the Principles) raise several concerns that may hinder dynamic rate design deliberations and outcomes. The Principles reflect certain unsupported assumptions and other questions that must be addressed and resolved *before* adoption. Expediting the adoption of these Principles, rather than expanding upon and refining the Principles based on stakeholder input and empirical data, will not serve to achieve the Commission's goals in the proceeding.

The Joint Ratepayer Parties provide their responses to each of the six proposed Principles below.

### 1. Demand flexibility tariffs should provide a dynamic price signal that can be easily integrated into standardized third-party DER and demand management solutions

The Commission should adopt the following language for Principle 1:

> *Demand flexibility tariffs should provide a dynamic price signal **for generation rates** that can be **cost-effectively** integrated into standardized third-party DER and demand management solutions*

This language underscores the need to ensure that demand flexibility goals are achieved in a cost-effective manner, and do not exacerbate ratepayer burden to achieve uncertain benefits.

At the outset, the standard set forth by this Principle only makes sense in the context of generation rates, since distribution and transmission costs are largely dependent on location. It is impractical to suggest that geographically distinct price signals can be easily integrated—if at all—into a standardized solution that does not account for locational marginal pricing. Thus, the Commission should first provide clarification that this Principle applies to generation rates.

Critically, the Commission must further address whether this Principle comports with affordability goals. The Principle does *not* appear to encourage cost-effective development and integration of the envisioned signal and solutions. Given the complexity of dynamic rate design, there will likely be significant costs associated with developing the price signal and standardized solution this Principle envisions. Given the lack of available RTP pilot data, it remains to be seen whether these costs would be justified by the intended savings, if any. Despite this uncertainty, the Principle's language, and its supporting rationale, only addresses the need for easily integrated and widespread solutions. [19] Thus, the Commission must clarify that this Principle's standardization goal must be accomplished in a cost-effective manner.

### 2. Dynamic prices should accurately integrate the value of energy, generation capacity, distribution capacity, and transmission capacity (to the extent feasible) based on real-time grid conditions

The Commission should adopt the following language for Principle 2:

> *Dynamic prices should accurately integrate the value of energy and generation capacity based on real-time grid conditions*

This revision reflects the extent to which dynamic rate reforms can be reasonably implemented in the state for the foreseeable future.

The Commission must ensure that all Principles set realistic and practical expectations for dynamic rate reform. As discussed above, it is simply impractical to extend the uniform, dynamic pricing signals envisioned in this proceeding beyond generation rates. Attempting to standardize distribution costs, which are highly dependent on local conditions, and transmission costs, which largely fall under FERC jurisdiction, would potentially require expending far greater resources than these efforts could ever save.

In addition, allocating fixed costs and long-term costs to an hourly rate structure that is tailored to mitigating short-term costs would likely give rise to inaccurate price signals and enormous revenue instability. Volumetric rates established on this basis would not compete well with the cost of alternative fuels, undermining the state's goals. These outcomes would ultimately exacerbate reliability *and* affordability concerns, and must be avoided. The

[19] Staff Proposal at 5.

Commission has recognized this very problem by accepting the need to reform residential rates, which have historically been made up almost entirely of volumetric charges.[20]

As such, the Commission should adopt a Principle that encourages the more reasonable goal of developing cost-effective statewide or regional dynamic *generation* rates. To be certain, developing these generation rates will not be without challenges. It is crucial to focus such efforts—and the funds used to facilitate them— on overcoming these challenges first, before potentially moving on to incorporating a wider (and more local) range of costs into dynamic pricing.

**3. The systems & processes needed to calculate the dynamic price signal should be able to integrate bundled and unbundled rate components so that all Load Serving Entities can elect to participate**

The Commission should not adopt this Principle because it would be premature to address voluntary, unbundled service options during the early stages of demand flexibility rate reform. If the Commission is inclined to adopt this Principle, however, it should adopt the following language for Principle 3:

> *The systems & processes needed to calculate the dynamic price signal should be able to* ***cost-effectively and securely*** *integrate bundled and unbundled rate components* ***(to the extent feasible****),* *so that all Load Serving Entities can elect to participate*

This revision is intended to mitigate cost and data privacy concerns inherent to the notion of the Commission developing and maintaining centralized systems and processes to be utilized by non-Commission-jurisdictional Load Serving Entities (LSEs).

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[20] *See* Scoping Memo at 2 ("Track A will establish an income-graduated fixed charge for residential rates for all investor-owned electric utilities in accordance with Assembly Bill 205").

During the November 17, 2022 Energy Division Workshop on Electric Rate Design Principles and Demand Flexibility Rate Design Principles, staff addressed this Principle and acknowledged that the Commission has no control over CCA generation rates; nor does the Commission control Direct Access generation rates. Instead, staff clarified that this Principle is intended to streamline LSEs' voluntary participation by creating back-end systems that can generate a single, streamlined price signal using the non-jurisdictional LSE's own generation rate.[21] This Principle raises significant concerns that, if left unaddressed, threaten to hinder the successful and cost-effective implementation of demand flexibility goals.

The Commission should reject Principle 3 and instead embrace a more gradual approach to demand flexibility that begins with determining whether it is practical and cost-effective to establish these systems and processes in the first place. As the Joint Ratepayer Parties have noted repeatedly, the costs associated with developing and maintaining demand flexibility systems and processes are likely to be very large, but have not yet been addressed.[22] Considering the computational complexity required for this undertaking, it is unclear whether demand flexibility can cost-effectively achieve the intended reforms. In addition, it remains unclear how data privacy and competitive neutrality concerns will be managed.[23] Adopting Principle 3 would only serve to *further* increase costs, complexity, and uncertainty by expanding the systems and processes to LSEs over which the Commission has limited, or no jurisdiction.

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[21] There is no consideration of the cost of developing those systems, and of whether the CCAs or ESPs would be willing to pay for that incremental cost. Bundled customers should not be required to subsidize the costs of systems put in place for CCA or ESP customers.
[22] Joint Ratepayer Parties OIR Comments at 6-7
[23] *See*, *e.g.*, *Id.,* at 7-8.

Principle 3 should be rejected because it risks diverting scarce resources from addressing the critical first steps of this endeavor. While it may be reasonable to expand demand flexibility access to unbundled customers at some point,[24] we do not yet know whether we can successfully, cost-effectively, and securely develop and implement widespread dynamic rates for bundled tariffs. Expanding focus to unbundled customers, over which the Commission has limited jurisdiction, would only exacerbate existing concerns and give rise to additional concerns—such as maintaining competitive neutrality and avoiding impermissible cost-shifts.[25]

The Commission and stakeholders would need to expend exceedingly scarce resources towards addressing these additional concerns without knowing whether any LSEs would voluntarily elect to participate. There are substantial complications associated with reflecting fixed costs and other unbundled rate components through highly dynamic rates. Rather than attempt to address these complications, it may be easier and cheaper for LSEs to avoid the system altogether. LSEs might also be dissuaded from participating for other reasons.

Depending on the statutory basis of the yet-to-be decided rules governing these systems, LSEs may be exposed to greater risk and have fewer protections than the IOUs, placing LSEs at a competitive disadvantage. Similarly, the total cost and associated cost allocation for these systems and processes remains painfully unclear. The Commission might need to assess whether cost-shifting prohibitions apply, and how to allocate system costs to non-IOU LSEs accordingly. Depending on the solution, it may not be economical for those LSEs to participate.

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[24] Scoping Memo at 6 ("Unbundled customers represent a growing share of California ratepayers").
[25] *See*, *e.g.,* Pub. Util. Code § 366.1(d)(1).

If, despite these concerns, the Commission is nonetheless inclined to adopt this Principle, it should adopt the Joint Ratepayer Parties' proposed language. Specifically, the Joint Ratepayer Parties propose that the Commission insert the terms "cost-effectively," "securely," and "(to the extent feasible)." Using these qualifiers would help to reflect the practicality of the proposal, as well as help mitigate unintended consequences by highlighting the need to ensure that non-IOU LSE access to demand flexibility systems and processes is facilitated in a way that mitigates costs and protects customer data.

### 4. Demand flexibility tariffs should be designed in accordance with all CPUC electric rate design principles

The Joint Ratepayer Parties have no specific feedback or recommendation concerning Principle 4, but reserve the right to reply to points raised in party comments.

### 5. Customers should have access to tools and mechanisms (such as load shape subscriptions, forward transactions, bill protection, etc.) that enable them to plan and schedule their energy use while managing the monthly variability of their bills

The Joint Ratepayer Parties do not propose a specific revision to Principle 5's language. However, this Principle does give rise to certain concerns that the Commission should address and take steps to avoid.

Crucially, although this Principle is intended to protect customers, it contemplates certain mechanisms that could have the opposite intended effect and severely risk system reliability and rate stability. Specifically, the Joint Ratepayer Parties are troubled by the notion that any customer might be able to manage bills through forward transactions or other speculation-based measures. Without more information, it is unclear to what extent this mechanism might allow for improper market manipulations that detrimentally impact other ratepayers and system reliability efforts. Similarly, it is unclear who would absorb the risks these mechanisms may create. It seems unlikely that Utilities would be forced to shoulder these risks outside of the ratebase. However, it would be unreasonable—and counterintuitive to the notion of cost-based rates—to force all ratepayers to cover the risks created by a few under this mechanism.

Furthermore, for customers who wish to participate in a dynamic rate, they should do so only after understanding that a portion of the hourly rates would be very high in contrast to standard time-of-use (TOU) on-peak rates, while the remaining hours would have hourly rates at or below the standard time-of-use rate. The idea that a bill protection or ceiling rate would simply be offered to these customers *in order to manage their bill* is inappropriate, and creates a moral hazard. If the Commission intends to simply lop off the very high hourly rates for customers to avoid "bill impacts" for those months containing high prices, the Commission should not bother with the increased expense of developing and maintaining dynamic rates. The entire point of having dynamic rates is to provide a strong price signal during those hours of great cost to the system, to incentivize customers to move their loads to lower-cost, lower-GHG periods.

This issue is further complicated by the prospect of non-IOU LSEs having potentially equal access to these tools and mechanisms. First, it is unclear how the Commission could provide such tools to non-jurisdictional entities. Second, if such tools are made available to the LSEs, the Commission would need to ensure that risks are allocated amongst bundled and unbundled customers in an equitable manner that preserves indifference.

These concerns warrant further consideration and clarification before the Principle can be adopted.

### 6. Demand flexibility tariffs should provide accurate cost-based compensation for exports that supports customer investments in electrification technologies and DERs

The Commission should adopt the following language for Principle 6:

> *Demand flexibility tariffs should provide accurate cost-based compensation for cost-effective exports from customer-sited electrification technologies and DERs.*

This revision aligns with staff's intent to encourage customer investments in cost-effective technologies, but corrects for potential subsidization and cost shift risks.

The Commission must be careful not to establish a Principle that inadvertently subsidizes technologies that might not produce net system benefits. As written, Principle 6 risks such an outcome, since it encourages cost-based compensation for the intended purpose of "supporting" customer investments in certain technologies, without any consideration of utility avoided generation costs.

The revision corrects for this by clarifying that tariffs should provide compensation for "cost-effective" exports. Further, the revision avoids potentially creating subsidies by eliminating the notion that a tariff should aim to support customer investments. As long as price signals are accurate and clear that an investment is cost-effective, customers should be able to make informed investment decisions on their own.

## C. How should the Commission support the implementation of the amendments to the California Energy Commission's Load Management Standards?

The Joint Ratepayer Parties have no specific response to this question, but reserve the right to reply to points raised in party comments on this question.

### D. Should the Commission expand any of the existing dynamic rate pilots as a near-term solution to benefit system reliability?

No. The Joint Ratepayer Parties oppose any expansion or other modification to existing dynamic rate pilots. If the Commission believes that certain dynamic rate structures might provide near-term reliability benefits, it should establish a new rate design window and allow the IOUs to propose new pilots therein.

First, it is unclear that expanding existing programs will provide a near-term solution to benefit system reliability. Current pilots were established, in part, to determine whether particular real-time pricing mechanisms or rate design would produce the desired benefits.

Second, the pilots were designed through extensive collaboration among various parties, and were authorized by Commission decisions. It would be inappropriate for the Commission to now step in and modify these mutually agreed-upon terms that were already litigated in other proceedings.

Third, the programs were designed to produce data reflecting certain insight into RTP design. A major goal of conducting these pilots is to actually measure changes in customer behavior associated with participation in the pilot. The learnings from these data will be critical to Commission efforts to implement demand flexibility rate reform in a cost-effective manner, and achieve the desired system reliability benefits. Abruptly modifying or expanding the existing pilot programs creates the risk of corrupting the data and hindering the Commission and stakeholders' ability to confidently rely upon that data.

**E. Beyond the six-element California Flexible Unified Signal for Energy (CalFUSE) policy roadmap proposed by Energy Division staff, what alternate proposals for hourly, marginal cost-based rates should the Commission consider to enable widespread adoption of demand flexibility and support the implementation of the amendments to the California Energy Commission's Load Management Standards?**

The Joint Ratepayer Parties have no specific response to this question, but reserve the right to reply to points raised in party comments on this question.

## III. CONCLUSION

The Joint Ratepayer Parties appreciate the opportunity to submit these comments on Scoping Memo.

Respectfully submitted,

Buchalter, A Professional Corporation

By:

Nora Sheriff

Nora Sheriff

Counsel for the California Large Energy Consumers Association and the Energy Producers and Users Coalition and on behalf of the California Farm Bureau Federation, California Manufacturers & Technology Association, Energy Users Forum, and Federal Executive Agencies

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**APPENDIX A**
**TRACKED CHANGES OF THE JOINT RATEPAYER PARTIES' PROPOSED REVISIONS TO STAFF'S PROPOSED RATE DESIGN PRINCIPLES AND DEMAND FLEXIBILITY RATE DESIGN PRINCIPLES**

The Joint Ratepayer Parties oppose the premature adoption of the proposed RDPs and Principles before the necessary data is made available. If the RDPs and Principles are nonetheless adopted, the changes reflected below should be made.

(Proposed additions are **<u>bolded and underlined</u>,** proposed deletions are ~~crossed out~~)

**Updated RDPs:**

**Updated RDP 1:** All residential customers (including low-income and medical baseline)-should have access to enough electricity to ensure their essential needs (health, safety, and full participation in society) are met at an affordable cost**<u>, and all customers, regardless of customer class, should have access to affordable electricity</u>**.

**Updated RDP 2:** No change.

**Updated RDP 3:** Rates should be based on cost-causation principles ~~and~~ **<u>to</u>** avoid cost shifts.

**Updated RDP 4:** Rates should encourage **<u>cost-effective</u>** greenhouse gas emissions reduction, ~~beneficial~~ **<u>cost-effective</u>** electrification, and cost-effective energy efficiency.

**Updated RDP 5:** No change.

**Updated RDP 6:** Customers **<u>should be able to understand and</u>** have options to manage their bills **<u>and readily understand the financial consequences of their consumption behaviors</u>**.

**Updated RDP 7:** No change.

**Updated RDP 8:** No change.

**Updated RDP 9:** Rates should encourage **economically efficient decision making by customers and** customer behavior that improves system reliability.

**Updated RDP 10:** No change

**New Demand Flexibility Rate Design Principles:**

**Principle 1:** Demand flexibility tariffs should provide a dynamic price signal **for generation rates** that can be ~~easily~~ **cost-effectively** integrated into standardized third-party DER and demand management solutions.

**Principle 2:** Dynamic prices should accurately integrate the value of energy~~,~~ **and** generation capacity~~, distribution capacity, and transmission capacity~~ (to the extent feasible) based on real-time grid conditions.

**Principle 3:** The systems & processes needed to calculate the dynamic price signal should be able to **cost-effectively and securely** integrate bundled and unbundled rate components so that all Load Serving Entities can elect to participate.

**Principle 4:** No Change.

**Principle 5:** No Change.

**Principle 6:** Demand flexibility tariffs should provide accurate cost-based **and cost-effective** compensation for exports ~~that supports customer investments in~~ **from customer-sited** electrification technologies and DERs.